

AMENDED IN SENATE JULY 15, 2010  
AMENDED IN SENATE JUNE 23, 2010  
AMENDED IN SENATE JUNE 16, 2010  
AMENDED IN SENATE JUNE 9, 2010  
AMENDED IN SENATE JUNE 1, 2010  
AMENDED IN SENATE DECEMBER 16, 2009  
AMENDED IN SENATE JULY 16, 2009  
AMENDED IN SENATE JUNE 9, 2009  
AMENDED IN ASSEMBLY MAY 18, 2009  
AMENDED IN ASSEMBLY MAY 6, 2009  
AMENDED IN ASSEMBLY APRIL 23, 2009  
AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 234**

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**Introduced by Assembly Member Huffman**

February 5, 2009

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An act to amend Sections 8670.40 and 8670.41 of, and to add Section 8670.17.3 to, the Government Code, relating to oil spills.

### LEGISLATIVE COUNSEL'S DIGEST

AB 234, as amended, Huffman. Oil spill prevention and response: transfer of oil.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law requires the administrator to adopt and implement regulations regarding the equipment, personnel, and operation of vessels to and from marine terminals that are used to transfer oil.

This bill would require the administrator to adopt regulations governing oil transfers that would require a transfer unit, as defined, to provide, at the point of transfer, appropriate equipment and supplies for the containment and removal of spills of oil in water adjacent to the transfer site. The regulations would require the transfer unit, prior to beginning an oil transfer, to preboom each oil transfer for the duration of the transfer, unless prebooming is determined not to be safe and effective.

Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed \$0.05 per barrel of crude oil or petroleum products, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, money in the fund is available for specified purposes.

This bill would revise that fee to an amount not to exceed \$0.06 per barrel of crude oil or petroleum products. The bill would also authorize the administrator to *adjust* the fee ~~to cover its costs to carry out those purposes, provided any increase is based on an annual increase in annually as measured by the California Consumer Price Index, and the fee does not exceed \$0.10 per barrel of crude oil or petroleum products.~~

Existing law requires the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing certain provisions relating to nontank vessels. Revenue from the fee is deposited into the Oil Spill Prevention and Administration Fund for appropriation by the Legislature for specified purposes.

This bill would establish that fee at \$3,000 per nontank vessel.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 8670.17.3 is added to the Government
- 2 Code, to read:
- 3 8670.17.3. (a) For purposes of this section, the following
- 4 definitions apply:
- 5 (1) "Boom" means flotation boom or other effective barrier
- 6 containment material suitable for containment of oil that is
- 7 discharged onto the surface of water.
- 8 (2) "Transfer unit" means a vessel involved in a bunkering or
- 9 lightering operation.
- 10 (b) The administrator shall adopt regulations governing oil
- 11 transfers that would require a transfer unit to provide, at the point
- 12 of transfer, appropriate equipment and supplies for the containment
- 13 and removal of spills of oil in water adjacent to the transfer site.
- 14 These regulations shall require the transfer unit, prior to beginning
- 15 an oil transfer, to preboom each oil transfer for the duration of the
- 16 transfer, unless prebooming is determined not to be safe and
- 17 effective according to subdivision (d). The regulations shall be
- 18 adopted, and thereafter periodically revised, to ensure the best
- 19 achievable protection of the public health and safety and the
- 20 environment.
- 21 (c) The regulations in subdivision (b) shall include, but are not
- 22 limited to, all of the following:
- 23 (1) Minimum boom amounts to which a vessel shall have access.
- 24 (2) Requirements for the transfer unit to periodically check the
- 25 boom positioning and adjust as necessary throughout the duration
- 26 of the transfer, and specifically during tidal changes and significant
- 27 wind or wave events, to maintain maximum containment of any
- 28 oil spilled into the water.
- 29 (3) Requirements for positing of boom to provide maximum
- 30 containment of any oil spilled into the water.
- 31 (4) Alternatives to prebooming when prebooming is determined
- 32 not to be safe and effective pursuant to subdivision (d) including,
- 33 but not limited to, minimum boom amounts and boom positioning
- 34 requirements, availability of an oil spill tracking system in the
- 35 event of a spill, and response preparedness requirements.

(d) The regulations in subdivision (b) shall include requirements for a transfer unit to develop thresholds for each location at which it conducts oil transfers to determine when it is safe and effective to preboom on a case-by-case basis.

(1) The thresholds shall be based on all of the following:

(A) Personnel safety.

(B) Sea state values in feet, including typical wave periods.

(C) Water current velocity.

(D) Wind speed.

(E) Other conditions such as vessel traffic, fishing activities, and other factors that influence oil transfers.

(2) The transfer unit shall develop a safe and effective determination threshold report that includes a summary of the safe and effective threshold values as well as information and analysis to support the values. The report shall be submitted to the Office of Spill Prevention and Response for review and approval.

(e) The regulations shall include a standard method for the vessel operator to communicate to the Office of Spill Prevention and Response when an operation was not preboomed, a process for reviewing the notifications, and a course of action when a vessel operator did not preboom, but the office determines it would have been safe and effective to preboom.

SEC. 2. Section 8670.40 of the Government Code is amended to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The annual assessment may not exceed six cents (\$0.06) per barrel of crude oil or petroleum products. ~~However, the administrator may increase the fee to cover its costs to carry out the purposes set forth in subdivision (e); provided any increase is based on an annual increase in the California Consumer Price Index as determined pursuant to Section 2212 of the Revenue and Taxation Code, and the fee does not exceed ten cents (\$0.10) per barrel of crude oil or petroleum products.~~ *oil or petroleum products. The administrator may adjust the fee annually for inflation, as measured by the California Consumer Price Index.*

(b) (1) The oil spill prevention and administration fee shall be imposed upon a person owning crude oil at the time that the crude

1 oil is received at a marine terminal from within or outside the state,  
2 and upon a person owning petroleum products at the time that  
3 those petroleum products are received at a marine terminal from  
4 outside this state. The fee shall be collected by the marine terminal  
5 operator from the owner of the crude oil or petroleum products  
6 based on each barrel of crude oil or petroleum products so received  
7 by means of a vessel operating in, through, or across the marine  
8 waters of the state. In addition, an operator of a pipeline shall pay  
9 the oil spill prevention and administration fee for each barrel of  
10 crude oil originating from a production facility in marine waters  
11 and transported in the state by means of a pipeline operating across,  
12 under, or through the marine waters of the state. The fees shall be  
13 remitted to the board by the terminal or pipeline operator on the  
14 25th day of the month based upon the number of barrels of crude  
15 oil or petroleum products received at a marine terminal or  
16 transported by pipeline during the preceding month. A fee shall  
17 not be imposed pursuant to this section with respect to crude oil  
18 or petroleum products if the person who would be liable for that  
19 fee, or responsible for its collection, establishes that the fee has  
20 been collected by a terminal operator registered under this chapter  
21 or paid to the board with respect to the crude oil or petroleum  
22 product.

23 (2) An owner of crude oil or petroleum products is liable for  
24 the fee until it has been paid to the board, except that payment to  
25 a marine terminal operator registered under this chapter is sufficient  
26 to relieve the owner from further liability for the fee.

27 (3) On or before January 20, the administrator shall annually  
28 prepare a plan that projects revenues and expenses over three fiscal  
29 years, including the current year. Based on the plan, the  
30 administrator shall set the fee so that projected revenues, including  
31 interest, are equivalent to expenses as reflected in the current  
32 Budget Act and in the proposed budget submitted by the Governor.  
33 In setting the fee, the administrator may allow for a surplus if the  
34 administrator finds that revenues will be exhausted during the  
35 period covered by the plan or that the surplus is necessary to cover  
36 possible contingencies.

37 (c) The moneys collected pursuant to subdivision (a) shall be  
38 deposited into the fund.

39 (d) The board shall collect the fee and adopt regulations for  
40 implementing the fee collection program.

(e) The fee described in this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research into prevention and control technology.

(2) To carry out studies that may lead to improved oil spill prevention and response.

(3) To finance environmental and economic studies relating to the effects of oil spills.

(4) To reimburse the member agencies of the State Interagency Oil Spill Committee for costs arising from implementation of this chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7 of this code, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(5) To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.

(6) To respond to an imminent threat of a spill in accordance with the provisions of Section 8670.62 pertaining to threatened discharges. The cumulative amount of an expenditure for this purpose shall not exceed the amount of one hundred thousand dollars (\$100,000) in a fiscal year unless the administrator receives the approval of the Director of Finance and notification is given to the Joint Legislative Budget Committee. Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, it is the intent of the Legislature that the annual Budget Act contain an appropriation of one hundred thousand dollars (\$100,000) from the fund for the purpose of allowing the administrator to respond to threatened oil spills.

(7) To reimburse the board for costs incurred to implement this chapter and to carry out Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code.

(8) To reimburse the costs incurred by the State Lands Commission in implementing the Oil Transfer and Transportation Emission and Risk Reduction Act of 2002 (Division 7.9 (commencing with Section 8780) of the Public Resources Code).

(9) To cover costs incurred by the Oiled Wildlife Care Network established by Section 8670.37.5 for training and field collection,

1 and search and rescue activities, pursuant to subdivision (g) of  
2 Section 8670.37.5.

3 (f) The moneys deposited in the fund shall not be used for  
4 responding to an oil spill.

5 SEC. 3. Section 8670.41 of the Government Code is amended  
6 to read:

7 8670.41. (a) The administrator shall charge a nontank vessel  
8 owner or operator a fee, to be collected with each application to  
9 obtain a certificate of financial responsibility, in the amount of  
10 three thousand dollars (\$3,000) per nontank vessel for the  
11 administrator's costs in implementing this chapter relating to  
12 nontank vessels.

13 (b) Notwithstanding subdivision (a), the administrator may  
14 charge a reduced fee under this section for nontank vessels  
15 determined by the administrator to pose a reduced risk of pollution,  
16 including, but not limited to, vessels used for research or training  
17 and vessels that are moored permanently or rarely move.

18 (c) The administrator shall deposit all revenue derived from the  
19 fees imposed under this section in the Oil Spill Prevention and  
20 Administration Fund established in the State Treasury under  
21 Section 8670.38.

22 (d) Revenue derived from the fees imposed under this section  
23 shall be spent for the purposes listed in subdivision (e) of Section  
24 8670.40, and may not be used for responding to an oil spill.